

**COMMONWEALTH OF PUERTO RICO  
PUERTO RICO ENERGY COMMISSION**

IN RE:

PUERTO RICO ELECTRIC POWER  
AUTHORITY REVITALIZATION  
CORPORATION,

Petitioner.

NO. CEPR-AP-2016-0001

**SUBJECT: TESTIMONY  
SUPPORTING PETITION FOR  
RESTRUCTURING ORDER**

Rebuttal Testimony of

**LISA J. DONAHUE**

Managing Director,

AlixPartners, LLP

and

Chief Restructuring Officer,

Puerto Rico Electric Power Authority

On behalf of the

Puerto Rico Electric Power Authority Revitalization Corporation

May 16, 2016

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1 **I. INTRODUCTION**

2 **A. Witness Identification**

3 **Q. Please state your name, title, employer, and business address.**

4 A. My name is Lisa J. Donahue.

5 **Q. Have you previously submitted testimony to the Commission in this Docket?**

6 A. Yes. I submitted written direct testimony, identified as Puerto Rico Electric Power  
7 Authority Revitalization Corporation (“Corporation”) Ex. 1.00, along with attachments  
8 thereto.

9 **Q. Has there been any material change in your background, qualifications, or duties**  
10 **since you submitted your direct testimony?**

11 A. No, there has not.

12 **B. Summary of Rebuttal Testimony**

13 **Q. What other parties and witnesses filed testimony in response to the Petition?**

14 A. The Puerto Rico Economic Competitiveness and Sustainability Institute (“ICSEPR”)  
15 filed and served testimonies of Attorney Fernando E. Agrait and Mr. Theodore Kuhn, a  
16 consultant. In addition, written statements that appear to also contain argument were  
17 filed and served by the Oficina Estatal de Política Pública Energética (“OEPPE” or the  
18 “Public Energy Policy Office”), the Oficina Independiente de Protección al Consumidor  
19 (“OIPC” or the “Independent Consumer Protection Office”), and jointly by several  
20 WindMar Group entities (“WindMar”). The statements do not identify any sponsoring  
21 witness and are not in the form of testimony.

22 Q. **How does your rebuttal testimony respond to those testimonies and statements?**

23 A. **First**, I summarize the testimonies and statements and explain why they do not justify  
24 rejecting the Corporation's request for a Restructuring Order.<sup>1</sup> **Second**, I respond to  
25 several specific claims in those testimonies and statements. And, **third**, I identify the  
26 other rebuttal testimonies submitted on behalf of the Corporation and the remaining  
27 points in those testimonies and statements that they address.

28 **II. OVERVIEW OF THE INTERVENOR TESTIMONIES AND STATEMENTS**

29 Q. **What action does the Petition ask the Commission to take?**

30 A. The Petition asks the Commission to issue a Restructuring Order permitting the  
31 Corporation to adopt a Restructuring Resolution that authorizes the issuance of certain  
32 Restructuring Bonds to support the financial restructuring of PREPA and its debt burden.  
33 The Corporation presented evidence that this transaction will benefit Puerto Rico and its  
34 citizens significantly and in many ways, including by saving Customers at least \$725  
35 million overall. The Commission's role in reviewing that securitization transaction is  
36 limited, but important. That role is defined by Article 6.25A of the Revitalization Act, as  
37 are the criteria the Commission must apply in evaluating the Corporation's request. The  
38 evidence the Corporation presented met every one of those criteria. We ask the  
39 Commission to act based on that evidence.

40 Q. **Do the testimonies and statements filed by the other parties provide any basis to**  
41 **deny the Petition?**

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<sup>1</sup> Where I use capitalized terms that are defined in the Petition or my Direct Testimony (Corporation Ex. 1.00), I intend the same meaning.

42 A. No. The statements of OEPPE and the WindMar address how certain costs of the Bonds  
43 should be divided among and recovered from certain customer groups, especially  
44 customers with behind-the-meter generation, but they do not oppose the restructuring or  
45 provide any reason to reject it. OIPC makes several mistaken or unsubstantiated claims  
46 about the Petition and the summary thereof provided by the Corporation that would not in  
47 any event justify rejecting the Petition or the securitization. OIPC also does not contest  
48 the benefits the proposed transaction will provide. Finally, the testimonies of Attorney  
49 Agrait and Mr. Kuhn appear to oppose the Petition, but focus primarily on the timing of  
50 the Commission's decision in the pending PREPA Integrated Resource Plan ("IRP")  
51 proceeding and the calculation of certain illustrative examples of projected Transition  
52 Charges. While the Corporation responds to those arguments, Attorney Agrait's and Mr.  
53 Kuhn's comments do not call into question the benefits of transaction or the calculation  
54 of actual Transition Charges using actual data and the proposed Adjustment Mechanism.

55 **III. RESPONSES TO SPECIFIC ISSUES**

56 **Q. OIPC expresses concerns about the complexity of the filing, the summaries of the**  
57 **Petition, and the ability of an average citizen to understand them. Can you please**  
58 **respond?**

59 A. Yes. First and foremost, there is nothing vague or misleading about the filing and  
60 OIPC's statement does not support any such conclusion. Moreover, while the transaction  
61 itself is inherently complex, the Corporation worked hard to ensure that our filing is  
62 understandable, clear, and laid out in a straightforward and organized manner. As  
63 required by law, the Corporation also provided and published a brief and plain summary

64 of the Petition, in both Spanish and English. While OIPC complains that this summary  
65 did not contain more detail, adding more details to the summary would have made it  
66 longer, more complex, and less accessible. Moreover, the summary could not, contrary  
67 to OIPC's assumption, contain additional details of the Transition Charges applicable to  
68 different classes of customers, the ways in which they are calculated and adjusted, or all  
69 the variables that could alter the resulting charges without the summary ceasing to be  
70 anything resembling a brief and plain summary.

71 The Corporation also took care to ensure that the filing itself explained the details  
72 of the transaction accurately and as directly as possible given its inherent complexity and  
73 the need to remain accurate. Indeed, while OIPC complains that the summary included a  
74 list of persons presenting testimony for the Corporation and topics they each address, that  
75 list enables readers to more easily access detail on issues of interest to them. In addition,  
76 both the Petition and various supporting witnesses provide information well beyond the  
77 legal minimum – for example, concerning the history and context of the transaction and  
78 PREPA's need to restructure its debt – in order to make it easier for the Commission and  
79 the public to understand the proposed transaction and its benefits.

80 Finally, the Corporation believes that much of this proceeding will be conducted  
81 in both Spanish and English, but OIPC cannot fairly criticize the Commission for filing  
82 its legal documents in English. This proceeding centers on a securitization transaction  
83 that, for practical reasons, is documented in English, and the technical experts are English  
84 speakers. However, as I said, the Corporation is highly committed to transparency and in  
85 that spirit will also voluntarily undertake to make available to the Commission and

86 parties for dissemination, and to post on its own website and on PREPA's, a Spanish  
87 language translation of the full text of the Corporation's Petition.

88 **Q. Attorney Agrait argues the Commission cannot or should not approve the Petition**  
89 **because the Commission has not yet met its own obligations under Act 57-2014**  
90 **including to approve a PREPA IRP. How do you respond?**

91 A. To begin with, much of Attorney Agrait's argument is legal. The Corporation will  
92 respond those legal arguments in its briefs. However, I do note that the Commission  
93 must act on the Petition within 75 days of the "corporation petition date" and Article  
94 6.25A contains no language authorizing an extension of that deadline pending approval  
95 of a PREPA IRP. Article 6.25A also does not mention approval of a PREPA IRP as a  
96 prerequisite or criterion for approval of the Corporation's Petition or for issuing a  
97 Restructuring Order.

98 **Q. Aside from any legal arguments, are there any practical reasons why the approval**  
99 **of PREPA's IRP must precede Commission action on the Corporation's Petition?**

100 A. No. The two processes are independent. The IRP process is forward looking. The IRP  
101 is, by definition, a plan for future PREPA investment and operations. In contrast, the  
102 securitization transaction addresses the unsustainable costs and demands of PREPA's  
103 preexisting debt. The two processes address different, independent needs. The IRP will  
104 not eliminate PREPA's need to restructure is existing debt. And, neither do the many  
105 benefits of the proposed restructuring depend on the Commission's prior approval of  
106 PREPA's IRP. Indeed, the securitization would be essential even if the proposed IRP  
107 were completely rejected.

108 Attorney Agrait also identifies a number of policy goals as legislative purposes of  
109 Act 57-2014, but that adds nothing to his argument. The policy goals of Puerto Rico, as  
110 expressed in Act 57-2014 and then supplemented and amended by Act 4-2016, are served  
111 by both an appropriate IRP and the timely and successful implementation of the  
112 securitization transaction; none are served by denying or postponing that securitization.  
113 Indeed, as the direct testimony of PREPA Executive Director Javier Quintana-Mendez  
114 (Corporation Ex. 2.00) makes clear, completing the restructuring is essential if PREPA is  
115 to achieve Puerto Rico's policy goals.

116 Q. **Attorney Agrait also testifies that the fiscal situation in Puerto Rico is fluid. Again,**  
117 **apart from any legal arguments, is this a reason to deny or delay issuing a**  
118 **Restructuring Order?**

119 A. No. The generally fluid fiscal condition in Puerto Rico does not alter the fact that the  
120 issuance of the Bonds is a sensible, consensual, and beneficial means of addressing  
121 PREPA's unsustainable debt burden and delivering significant benefits to customers.  
122 Neither the passage of the Moratorium Law, nor any other potential developments,  
123 warrant the delay or rejection of the workable solution to PREPA's significant debt  
124 problem. A successful securitization by the Corporation is an essential component to  
125 help stabilize PREPA's financial situation, which, in turn, is a key part of the efforts to  
126 resolve Puerto Rico's current financial crisis.

127 Q. **Finally, Attorney Agrait recommends that the Commission not act until "the**  
128 **securities market environment is conducive for PREPA to issue new bonds." How**  
129 **do you respond?**

130 A. The securitized Bonds will be issued by the Corporation, a legal entity separate and  
131 distinct from PREPA. There is no reason to delay the Commission's action on the  
132 Corporation's Petition, or the securitization itself, until "the securities market  
133 environment is conducive for PREPA to issue new bonds." PREPA will not be issuing  
134 the securitized bonds and indeed, PREPA's inability to access the capital markets itself  
135 is another reason to proceed promptly with the securitization and defeasement of legacy  
136 PREPA debt.

137 IV. **SUMMARY OF OTHER REBUTTAL TESTIMONIES**

138 Q. **In addition to your own rebuttal testimony, what other rebuttal testimonies does the**  
139 **Commission submit?**

140 A. The Corporation submits rebuttal testimony of two other witnesses, both of whom also  
141 offered direct testimony:

142 First, **Michael Mace** (Corporation Ex. 8.00) testifies concerning issues relating to  
143 the bond markets, the size and characteristics of the Bond transaction, and the portion of  
144 the legacy PREPA debt that the Bonds will defease. Mr. Mace also reconfirms that the  
145 projected professional fees and costs associated with a transaction of this magnitude and  
146 complexity are reasonable and customary, and that the services provided are essential to  
147 the transaction and to ultimately delivering benefits that far exceed those costs.

148 Second, **Ralph Zarumba** (Corporation Ex. 9.00) responds to questions about how  
149 the Transition Charges are calculated and adjusted, including (1) the Corporation's  
150 determination to base residential Transition Charges on a per service agreement basis,  
151 (2) the Corporation's determination to propose to not reduce Customers' kWh for the

152 purpose of Transition Charge calculations on account of the their use of behind-the-meter  
153 generation, (3) and the role of demand forecasts and historical demand and use data in  
154 illustrating Transition Charges.

155 **V. CONCLUSION**

156 **Q. In light of the testimony and statements submitted by ICSEPR, OIPC, OEPPE,**  
157 **Fernando E. Agrait, Esq., and Theodore Kuhn, and the Petition and materials**  
158 **submitted by the Corporation, what action should the Commission take?**

159 **A.** The Commission should grant the Petition and issue a Restructuring Order as proposed  
160 by the Corporation subject only to those changes and modifications accepted by the  
161 Corporation in its testimony and submissions. The Corporation has met the statutory  
162 criteria of Section 6.25A and is therefore entitled to such an Order. Moreover, the  
163 materials before the Commission demonstrate that issuing the Restructuring Order is  
164 essential to PREPA's restructuring and will deliver real and significant benefits to Puerto  
165 Rico and its citizens.

166 **Q. Does this conclude your rebuttal testimony?**

167 **A.** Yes, it does.

State of New York }  
County of New York } SS:

**No. 213868**

I, **Milton Adair Tingling**, Clerk of the County of New York, and Clerk of the Supreme Court in and for said county, the same being a court of record having a seal, **DO HEREBY CERTIFY THAT**

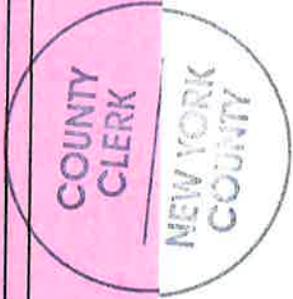
**SHARYN P. DOYLE**

whose name is subscribed to the annexed original instrument has been commissioned and qualified as a NOTARY PUBLIC.....  
and has filed his/her original signature in this office and that he/she was at the time of taking such proof or acknowledgment or oath duly authorized by the laws of the State of New York to take the same: that he/she is well acquainted with the handwriting of such public officer or has compared the signature on the certificate of proof or acknowledgment or oath with the original signature filed in his/her office by such public officer and he/she believes that the signature on the original instrument is genuine.



IN WITNESS WHEREOF, I have hereunto set my hand and my official seal this  
16th day of May, 2016

*Milton Adair Tingling*  
County Clerk, New York County



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State of New York }  
County of New York } ss:

**No. 213868**

I, **Milton Adair Tingling**, Clerk of the County of New York, and Clerk of the Supreme Court in and for said county, the same being a court of record having a seal, **DO HEREBY CERTIFY THAT**

**SHARYN P. DOYLE**

whose name is subscribed to the annexed original instrument has been commissioned and qualified as a NOTARY PUBLIC.....  
and has filed his/her original signature in this office and that he/she was at the time of taking such proof or acknowledgment or oath duly authorized by the laws of the State of New York to take the same: that he/she is well acquainted with the handwriting of such public officer or has compared the signature on the certificate of proof or acknowledgment or oath with the original signature filed in his/her office by such public officer and he/she believes that the signature on the original instrument is genuine.



IN WITNESS WHEREOF, I have hereunto set my hand and my official seal this  
16th day of May, 2016

*Milton Adair Tingling*  
County Clerk, New York County

COUNTY  
CLERK

**ATTESTATION**

STATE OF NEW YORK            )  
  )  
COUNTY OF NEW YORK        )        ss.

The undersigned, LISA J. DONAHUE, being of legal age, married, executive and consultant, and resident of the Borough of Manhattan, New York City, New York, in her capacities as a Managing Director of AlixPartners LLP and Chief Restructuring Officer of the Puerto Rico Electric Power Authority, states that the foregoing testimony, presented in written Question and Answer format, is true and correct to the best of her knowledge and belief.

**IN WITNESS WHEREOF**, I have hereunto signed my name this 16<sup>th</sup> day of May 2016.

  
\_\_\_\_\_  
LISA J. DONAHUE

Managing Director  
AlixPartners LLP  
and  
Chief Restructuring Officer,  
Puerto Rico Electric Power Authority



Affidavit No. \_\_\_\_\_

Acknowledged and subscribed before me by Lisa J. Donahue, of the personal circumstances above mentioned, in her capacities as a Managing Director of AlixPartners LLP and Chief Restructuring Officer of the Puerto Rico Electric Power Authority, who is personally known to me, in New York City, New York County, New York, this 16<sup>th</sup> day of May 2016.

  
\_\_\_\_\_  
Notary Public

**SHARYN P. DOYLE**  
Notary Public, State of New York  
No. 01DO5051953  
Qualified in New York County  
Commission Expires Nov. 13, 2017